

support of the purposes described in subsection (b)(1), including through—

“(1) the development and issuance of a Hazard Analysis and Critical Control Points plan for the eligible entity, which may be developed by a consultant;

“(2) the purchase or establishment, as applicable, of facilities, equipment, processes, and operations necessary for the eligible entity to comply with applicable requirements under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

“(3) the purchase of cold storage, equipment, or transportation services;

“(4) the purchase of temperature screening supplies, testing for communicable diseases, disinfectant, sanitation systems, hand washing stations, and other sanitizing supplies;

“(5) the purchase and decontamination of personal protective equipment;

“(6) the construction or purchase of humane handling infrastructure, including holding space for livestock prior to slaughter, shade structures, and knock box structures;

“(7)(A) the purchase of software and computer equipment for record keeping, production data, Hazard Analysis and Critical Control Points record review, and facilitation of marketing and sales of products in a manner consistent with the social distancing guidelines of the Centers for Disease Control and Prevention; and

“(B) the provision of guidelines and training relating to that software and computer equipment;

“(8) the provision of staff time and training for implementing and monitoring health and safety procedures;

“(9) the development of a feasibility study or business plan for, or the carrying out of any other activity associated with, establishing or expanding a small meat or poultry processing facility;

“(10) the purchase of equipment that enables the further use or value-added sale of coproducts or byproducts, such as organs, hides, and other relevant products; and

“(11) other activities associated with expanding or establishing an eligible entity described in subsection (a)(2)(A), as determined by the Secretary.

“(e) OUTREACH.—During the period beginning on the date on which the Secretary publishes the notice under subsection (c)(4) and ending on the date on which the Secretary begins to accept applications under subsection (c)(1), the Secretary shall perform outreach to States and eligible entities relating to grants under this section.

“(f) FEDERAL SHARE.—

“(1) IN GENERAL.—Subject to paragraph (2), the Federal share of the activities carried out using a grant awarded under this section shall not exceed—

“(A) 90 percent in the case of a grant in the amount of \$100,000 or less; or

“(B) 75 percent in the case of a grant in an amount greater than \$100,000.

“(2) FISCAL YEARS 2023 AND 2024.—An eligible entity awarded a grant under this section during fiscal year 2023 or 2024 shall not be required to provide non-Federal matching funds with respect to the grant.

“(g) ADMINISTRATION.—The promulgation of regulations under, and administration of, this section shall be made without regard to—

“(1) the notice and comment provisions of section 553 of title 5, United States Code; and

“(2) chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’).

“(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture to carry out this

section \$20,000,000 for each of fiscal years 2023 through 2028.”

#### SEC. 6. LOCAL MEAT AND POULTRY PROCESSING TRAINING PROGRAMS.

Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 is amended by inserting before section 404 (7 U.S.C. 7624) the following:

##### “SEC. 403. LOCAL MEAT AND POULTRY PROCESSING TRAINING PROGRAMS.

“(a) INSTITUTIONAL CAREER TRAINING PROGRAMS.—

“(1) IN GENERAL.—The Secretary shall provide competitive grants to junior or community colleges, technical or vocational schools, nonprofit organizations, worker training centers, and land-grant colleges and universities (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) to establish or expand career training programs relating to meat and poultry processing.

“(2) APPLICATIONS FOR SMALL GRANTS.—The Secretary shall establish a separate, simplified application and reporting process for entities described in paragraph (1) applying for a grant under this subsection of not more than \$100,000.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection \$10,000,000 for each of fiscal years 2023 through 2028.

“(b) PROCESSOR CAREER TRAINING PROGRAMS.—

“(1) IN GENERAL.—The Secretary shall provide grants to smaller establishments and very small establishments (as those terms are defined in the final rule entitled ‘Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems’ (61 Fed. Reg. 38806 (July 25, 1996))) and nongovernmental organizations to offset the cost of training new meat and poultry processors.

“(2) APPLICATIONS FOR SMALL GRANTS.—The Secretary shall establish a separate, simplified application and reporting process for entities described in paragraph (1) applying for a grant under this subsection of not more than \$100,000.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection \$10,000,000 for each of fiscal years 2023 through 2028.”

By Mr. DURBIN (for himself and Mr. GRAHAM):

S. 365. A bill to authorize the cancellation of removal and adjustment of status of certain individuals who are long-term United States residents and who entered the United States as children, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 365

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Dream Act of 2023”.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) IN GENERAL.—Except as otherwise specifically provided, any term used in this Act that is used in the immigration laws shall have the meaning given such term in the immigration laws.

(2) DACA.—The term “DACA” means deferred action granted to an alien pursuant to the Deferred Action for Childhood Arrivals program announced by President Obama on June 15, 2012.

(3) DISABILITY.—The term “disability” has the meaning given such term in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)).

(4) EARLY CHILDHOOD EDUCATION PROGRAM.—The term “early childhood education program” has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(5) ELEMENTARY SCHOOL; HIGH SCHOOL; SECONDARY SCHOOL.—The terms “elementary school”, “high school”, and “secondary school” have the meanings given such terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(7) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education”—

(A) except as provided in subparagraph (B), has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and

(B) does not include an institution of higher education outside of the United States.

(8) PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.—The term “permanent resident status on a conditional basis” means status as an alien lawfully admitted for permanent residence on a conditional basis under this Act.

(9) POVERTY LINE.—The term “poverty line” has the meaning given such term in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902).

(10) SECRETARY.—Except as otherwise specifically provided, the term “Secretary” means the Secretary of Homeland Security.

(11) UNIFORMED SERVICES.—The term “Uniformed Services” has the meaning given the term “uniformed services” in section 101(a) of title 10, United States Code.

#### SEC. 3. PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, an alien shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence under this section, to have obtained such status on a conditional basis subject to the provisions under this Act.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, an alien who is inadmissible or deportable from the United States or is in temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a), if—

(A) the alien has been continuously physically present in the United States since the date that is 4 years before the date of the enactment of this Act;

(B) the alien was younger than 18 years of age on the date on which the alien initially entered the United States;

(C) subject to paragraphs (2) and (3), the alien—

(i) is not inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(ii) has not ordered, incited, assisted, or otherwise participated in the persecution of

any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(iii) has not been convicted of—

(I) any offense under Federal or State law, other than a State offense for which an essential element is the alien's immigration status, that is punishable by a maximum term of imprisonment of more than 1 year; or

(II) 3 or more offenses under Federal or State law, other than State offenses for which an essential element is the alien's immigration status, for which the alien was convicted on different dates for each of the 3 offenses and imprisoned for an aggregate of 90 days or more; and

(D) the alien—

(i) has been admitted to an institution of higher education;

(ii) has earned a high school diploma or a commensurate alternative award from a public or private high school, or has obtained a general education development certificate recognized under State law or a high school equivalency diploma in the United States; or

(iii) is enrolled in secondary school or in an education program assisting students in—

(I) obtaining a regular high school diploma or its recognized equivalent under State law; or

(II) in passing a general educational development exam, a high school equivalence diploma examination, or other similar State-authorized exam.

(2) **WAIVER.**—With respect to any benefit under this Act, the Secretary may waive the grounds of inadmissibility under paragraph (2), (6)(E), (6)(G), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian purposes or family unity or if the waiver is otherwise in the public interest.

(3) **TREATMENT OF EXPUNGED CONVICTIONS.**—An expunged conviction shall not automatically be treated as an offense under paragraph (1). The Secretary shall evaluate expunged convictions on a case-by-case basis according to the nature and severity of the offense to determine whether, under the particular circumstances, the Secretary determines that the alien should be eligible for cancellation of removal, adjustment to permanent resident status on a conditional basis, or other adjustment of status.

(4) **DACA RECIPIENTS.**—The Secretary shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, an alien who was granted DACA unless the alien has engaged in conduct since the alien was granted DACA that would make the alien ineligible for DACA.

(5) **APPLICATION FEE.**—

(A) **IN GENERAL.**—The Secretary may require an alien applying for permanent resident status on a conditional basis under this section to pay a reasonable fee that is commensurate with the cost of processing the application.

(B) **EXEMPTION.**—An applicant may be exempted from paying the fee required under subparagraph (A) if the alien—

(i)(I) is younger than 18 years of age;

(II) received total income, during the 12-month period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line; and

(III) is in foster care or otherwise lacking any parental or other familial support;

(ii) is younger than 18 years of age and is homeless;

(iii)(I) cannot care for himself or herself because of a serious, chronic disability; and

(II) received total income, during the 12-month period immediately preceding the date on which the alien files an application

under this section, that is less than 150 percent of the poverty line; or

(iv)(I) during the 12-month period immediately preceding the date on which the alien files an application under this section, accumulated \$10,000 or more in debt as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien; and

(II) received total income, during the 12-month period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line.

(6) **SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.**—The Secretary may not grant an alien permanent resident status on a conditional basis under this section unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for aliens who are unable to provide such biometric or biographic data because of a physical impairment.

(7) **BACKGROUND CHECKS.**—

(A) **REQUIREMENT FOR BACKGROUND CHECKS.**—The Secretary shall utilize biometric, biographic, and other data that the Secretary determines appropriate—

(i) to conduct security and law enforcement background checks of an alien seeking permanent resident status on a conditional basis under this section; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for such status.

(B) **COMPLETION OF BACKGROUND CHECKS.**—The security and law enforcement background checks of an alien required under subparagraph (A) shall be completed, to the satisfaction of the Secretary, before the date on which the Secretary grants such alien permanent resident status on a conditional basis under this section.

(8) **MEDICAL EXAMINATION.**—

(A) **REQUIREMENT.**—An alien applying for permanent resident status on a conditional basis under this section shall undergo a medical examination.

(B) **POLICIES AND PROCEDURES.**—The Secretary, with the concurrence of the Secretary of Health and Human Services, shall prescribe policies and procedures for the nature and timing of the examination required under subparagraph (A).

(9) **MILITARY SELECTIVE SERVICE.**—An alien applying for permanent resident status on a conditional basis under this section shall establish that the alien has registered under the Military Selective Service Act (50 U.S.C. 3801 et seq.), if the alien is subject to registration under such Act.

(c) **DETERMINATION OF CONTINUOUS PRESENCE.**—

(1) **TERMINATION OF CONTINUOUS PERIOD.**—Any period of continuous physical presence in the United States of an alien who applies for permanent resident status on a conditional basis under this section shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(2) **TREATMENT OF CERTAIN BREAKS IN PRESENCE.**—

(A) **IN GENERAL.**—Except as provided in subparagraphs (B) and (C), an alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (b)(1)(A) if the alien has departed from the United States for any period exceeding 90 days or for any periods, in the aggregate, exceeding 180 days.

(B) **EXTENSIONS FOR EXTENUATING CIRCUMSTANCES.**—The Secretary may extend the time periods described in subparagraph (A) for an alien who demonstrates that the fail-

ure to timely return to the United States was due to extenuating circumstances beyond the alien's control, including the serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child of the alien.

(C) **TRAVEL AUTHORIZED BY THE SECRETARY.**—Any period of travel outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States under subparagraph (A).

(d) **LIMITATION ON REMOVAL OF CERTAIN ALIENS.**—

(1) **IN GENERAL.**—The Secretary or the Attorney General may not remove an alien who appears prima facie eligible for relief under this section.

(2) **ALIENS SUBJECT TO REMOVAL.**—The Secretary shall provide a reasonable opportunity to apply for relief under this section to any alien who requests such an opportunity or who appears prima facie eligible for relief under this section if the alien is in removal proceedings, is the subject of a final removal order, or is the subject of a voluntary departure order.

(3) **CERTAIN ALIENS ENROLLED IN ELEMENTARY OR SECONDARY SCHOOL.**—

(A) **STAY OF REMOVAL.**—The Attorney General shall stay the removal proceedings of an alien who—

(i) meets all the requirements under subparagraphs (A), (B), and (C) of subsection (b)(1), subject to paragraphs (2) and (3) of such subsection;

(ii) is at least 5 years of age; and

(iii) is enrolled in an elementary school, a secondary school, or an early childhood education program.

(B) **COMMENCEMENT OF REMOVAL PROCEEDINGS.**—The Secretary may not commence removal proceedings for an alien described in subparagraph (A).

(C) **EMPLOYMENT.**—An alien whose removal is stayed pursuant to subparagraph (A) or who may not be placed in removal proceedings pursuant to subparagraph (B) shall, upon application to the Secretary, be granted an employment authorization document.

(D) **LIFT OF STAY.**—The Secretary or Attorney General may not lift the stay granted to an alien under subparagraph (A) unless the alien ceases to meet the requirements under such subparagraph.

(e) **EXEMPTION FROM NUMERICAL LIMITATIONS.**—Nothing in this section or in any other law may be construed to apply a numerical limitation on the number of aliens who may be granted permanent resident status on a conditional basis under this Act.

**SEC. 4. TERMS OF PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.**

(a) **PERIOD OF STATUS.**—Permanent resident status on a conditional basis is—

(1) valid for a period of 8 years, unless such period is extended by the Secretary; and

(2) subject to termination under subsection (c).

(b) **NOTICE OF REQUIREMENTS.**—At the time an alien obtains permanent resident status on a conditional basis, the Secretary shall provide notice to the alien regarding the provisions of this Act and the requirements to have the conditional basis of such status removed.

(c) **TERMINATION OF STATUS.**—The Secretary may terminate the permanent resident status on a conditional basis of an alien only if the Secretary—

(1) determines that the alien ceases to meet the requirements under paragraph (1)(C) of section 3(b), subject to paragraphs (2) and (3) of that section; and

(2) prior to the termination, provides the alien—

(A) notice of the proposed termination; and

(B) the opportunity for a hearing to provide evidence that the alien meets such requirements or otherwise contest the termination.

(d) RETURN TO PREVIOUS IMMIGRATION STATUS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is terminated under subsection (c) or whose application for such status is denied shall return to the immigration status that the alien had immediately before receiving permanent resident status on a conditional basis or applying for such status, as appropriate.

(2) SPECIAL RULE FOR TEMPORARY PROTECTED STATUS.—An alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is terminated under subsection (c) or whose application for such status is denied and who had temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a) immediately before receiving or applying for such permanent resident status on a conditional basis, as appropriate, may not return to such temporary protected status if—

(A) the relevant designation under section 244(b) of the Immigration and Nationality Act (8 U.S.C. 1254a(b)) has been terminated; or

(B) the Secretary determines that the reason for terminating the permanent resident status on a conditional basis renders the alien ineligible for such temporary protected status.

#### SEC. 5. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS.

(a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL BASIS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall remove the conditional basis of an alien's permanent resident status granted under this Act and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(A) is described in paragraph (1)(C) of section 3(b), subject to paragraphs (2) and (3) of that section;

(B) has not abandoned the alien's residence in the United States; and

(C)(i) has acquired a degree from an institution of higher education or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States;

(ii) has served in the Uniformed Services for at least 2 years and, if discharged, received an honorable discharge; or

(iii) has been employed for periods totaling at least 3 years and at least 75 percent of the time that the alien has had a valid employment authorization, except that any period during which the alien is not employed while having a valid employment authorization and is enrolled in an institution of higher education, a secondary school, or an education program described in section 3(b)(1)(D)(iii), shall not count toward the time requirements under this clause.

(2) HARDSHIP EXCEPTION.—The Secretary shall remove the conditional basis of an alien's permanent resident status and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(A) satisfies the requirements under subparagraphs (A) and (B) of paragraph (1);

(B) demonstrates compelling circumstances for the inability to satisfy the requirements under subparagraph (C) of such paragraph; and

(C) demonstrates that—

(i) the alien has a disability;

(ii) the alien is a full-time caregiver of a minor child; or

(iii) the removal of the alien from the United States would result in extreme hardship to the alien or the alien's spouse, parent, or child who is a national of the United States or is lawfully admitted for permanent residence.

(3) CITIZENSHIP REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the conditional basis of an alien's permanent resident status granted under this Act may not be removed unless the alien demonstrates that the alien satisfies the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)).

(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien who is unable to meet the requirements under such section 312(a) due to disability.

(4) APPLICATION FEE.—

(A) IN GENERAL.—The Secretary may require aliens applying for lawful permanent resident status under this section to pay a reasonable fee that is commensurate with the cost of processing the application.

(B) EXEMPTION.—An applicant may be exempted from paying the fee required under subparagraph (A) if the alien—

(i)(I) is younger than 18 years of age;

(II) received total income, during the 12-month period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line; and

(III) is in foster care or otherwise lacking any parental or other familial support;

(ii) is younger than 18 years of age and is homeless;

(iii)(I) cannot care for himself or herself because of a serious, chronic disability; and

(II) received total income, during the 12-month period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line; or

(iv)(I) during the 12-month period immediately preceding the date on which the alien files an application under this section, the alien accumulated \$10,000 or more in debt as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien; and

(II) received total income, during the 12-month period immediately preceding the date on which the alien files an application under this section, that is less than 150 percent of the poverty line.

(5) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—The Secretary may not remove the conditional basis of an alien's permanent resident status unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for applicants who are unable to provide such biometric data because of a physical impairment.

(6) BACKGROUND CHECKS.—

(A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize biometric, biographic, and other data that the Secretary determines appropriate—

(i) to conduct security and law enforcement background checks of an alien applying for removal of the conditional basis of the alien's permanent resident status; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for removal of such conditional basis.

(B) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement background checks of an alien required under subparagraph (A) shall be completed, to the satisfaction of the Secretary, before the date on which the Secretary removes the conditional basis of the alien's permanent resident status.

(b) TREATMENT FOR PURPOSES OF NATURALIZATION.—

(1) IN GENERAL.—For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), an alien granted permanent resident status on a conditional basis shall be considered to have been admitted to the United States, and be present in the United States, as an alien lawfully admitted for permanent residence.

(2) LIMITATION ON APPLICATION FOR NATURALIZATION.—An alien may not apply for naturalization while the alien is in permanent resident status on a conditional basis.

#### SEC. 6. DOCUMENTATION REQUIREMENTS.

(a) DOCUMENTS ESTABLISHING IDENTITY.—An alien's application for permanent resident status on a conditional basis may include, as proof of identity—

(1) a passport or national identity document from the alien's country of origin that includes the alien's name and the alien's photograph or fingerprint;

(2) the alien's birth certificate and an identity card that includes the alien's name and photograph;

(3) a school identification card that includes the alien's name and photograph, and school records showing the alien's name and that the alien is or was enrolled at the school;

(4) a Uniformed Services identification card issued by the Department of Defense;

(5) any immigration or other document issued by the United States Government bearing the alien's name and photograph; or

(6) a State-issued identification card bearing the alien's name and photograph.

(b) DOCUMENTS ESTABLISHING CONTINUOUS PHYSICAL PRESENCE IN THE UNITED STATES.—To establish that an alien has been continuously physically present in the United States, as required under section 3(b)(1)(A), or to establish that an alien has not abandoned residence in the United States, as required under section 5(a)(1)(B), the alien may submit documents to the Secretary, including—

(1) employment records that include the employer's name and contact information;

(2) records from any educational institution the alien has attended in the United States;

(3) records of service from the Uniformed Services;

(4) official records from a religious entity confirming the alien's participation in a religious ceremony;

(5) passport entries;

(6) a birth certificate for a child who was born in the United States;

(7) automobile license receipts or registration;

(8) deeds, mortgages, or rental agreement contracts;

(9) tax receipts;

(10) insurance policies;

(11) remittance records;

(12) rent receipts or utility bills bearing the alien's name or the name of an immediate family member of the alien, and the alien's address;

(13) copies of money order receipts for money sent in or out of the United States;

(14) dated bank transactions; or

(15) 2 or more sworn affidavits from individuals who are not related to the alien who have direct knowledge of the alien's continuous physical presence in the United States, that contain—

(A) the name, address, and telephone number of the affiant; and

(B) the nature and duration of the relationship between the affiant and the alien.

(c) DOCUMENTS ESTABLISHING INITIAL ENTRY INTO THE UNITED STATES.—To establish under section 3(b)(1)(B) that an alien was

younger than 18 years of age on the date on which the alien initially entered the United States, an alien may submit documents to the Secretary, including—

(1) an admission stamp on the alien's passport;

(2) records from any educational institution the alien has attended in the United States;

(3) any document from the Department of Justice or the Department of Homeland Security stating the alien's date of entry into the United States;

(4) hospital or medical records showing medical treatment or hospitalization, the name of the medical facility or physician, and the date of the treatment or hospitalization;

(5) rent receipts or utility bills bearing the alien's name or the name of an immediate family member of the alien, and the alien's address;

(6) employment records that include the employer's name and contact information;

(7) official records from a religious entity confirming the alien's participation in a religious ceremony;

(8) a birth certificate for a child who was born in the United States;

(9) automobile license receipts or registration;

(10) deeds, mortgages, or rental agreement contracts;

(11) tax receipts;

(12) travel records;

(13) copies of money order receipts sent in or out of the country;

(14) dated bank transactions;

(15) remittance records; or

(16) insurance policies.

(d) DOCUMENTS ESTABLISHING ADMISSION TO AN INSTITUTION OF HIGHER EDUCATION.—To establish that an alien has been admitted to an institution of higher education, the alien shall submit to the Secretary a document from the institution of higher education certifying that the alien—

(1) has been admitted to the institution; or

(2) is currently enrolled in the institution as a student.

(e) DOCUMENTS ESTABLISHING RECEIPT OF A DEGREE FROM AN INSTITUTION OF HIGHER EDUCATION.—To establish that an alien has acquired a degree from an institution of higher education in the United States, the alien shall submit to the Secretary a diploma or other document from the institution stating that the alien has received such a degree.

(f) DOCUMENTS ESTABLISHING RECEIPT OF HIGH SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOPMENT CERTIFICATE, OR A RECOGNIZED EQUIVALENT.—To establish that an alien has earned a high school diploma or a commensurate alternative award from a public or private high school, or has obtained a general educational development certificate recognized under State law or a high school equivalency diploma in the United States, the alien shall submit to the Secretary—

(1) a high school diploma, certificate of completion, or other alternate award;

(2) a high school equivalency diploma or certificate recognized under State law; or

(3) evidence that the alien passed a State-authorized exam, including the general educational development exam, in the United States.

(g) DOCUMENTS ESTABLISHING ENROLLMENT IN AN EDUCATIONAL PROGRAM.—To establish that an alien is enrolled in any school or education program described in section 3(b)(1)(D)(iii), 3(d)(3)(A)(iii), or 5(a)(1)(C), the alien shall submit school records from the United States school that the alien is currently attending that include—

(1) the name of the school; and

(2) the alien's name, periods of attendance, and current grade or educational level.

(h) DOCUMENTS ESTABLISHING EXEMPTION FROM APPLICATION FEES.—To establish that an alien is exempt from an application fee under section 3(b)(5)(B) or 5(a)(4)(B), the alien shall submit to the Secretary the following relevant documents:

(1) DOCUMENTS TO ESTABLISH AGE.—To establish that an alien meets an age requirement, the alien shall provide proof of identity, as described in subsection (a), that establishes that the alien is younger than 18 years of age.

(2) DOCUMENTS TO ESTABLISH INCOME.—To establish the alien's income, the alien shall provide—

(A) employment records that have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency;

(B) bank records; or

(C) at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien's work and income that contain—

(i) the name, address, and telephone number of the affiant; and

(ii) the nature and duration of the relationship between the affiant and the alien.

(3) DOCUMENTS TO ESTABLISH FOSTER CARE, LACK OF FAMILIAL SUPPORT, HOMELESSNESS, OR SERIOUS, CHRONIC DISABILITY.—To establish that the alien was in foster care, lacks parental or familial support, is homeless, or has a serious, chronic disability, the alien shall provide at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that contain—

(A) a statement that the alien is in foster care, otherwise lacks any parental or other familial support, is homeless, or has a serious, chronic disability, as appropriate;

(B) the name, address, and telephone number of the affiant; and

(C) the nature and duration of the relationship between the affiant and the alien.

(4) DOCUMENTS TO ESTABLISH UNPAID MEDICAL EXPENSE.—To establish that the alien has debt as a result of unreimbursed medical expenses, the alien shall provide receipts or other documentation from a medical provider that—

(A) bear the provider's name and address;

(B) bear the name of the individual receiving treatment; and

(C) document that the alien has accumulated \$10,000 or more in debt in the past 12 months as a result of unreimbursed medical expenses incurred by the alien or an immediate family member of the alien.

(i) DOCUMENTS ESTABLISHING QUALIFICATION FOR HARSHIP EXEMPTION.—To establish that an alien satisfies one of the criteria for the hardship exemption set forth in section 5(a)(2)(C), the alien shall submit to the Secretary at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that warrant the exemption, that contain—

(1) the name, address, and telephone number of the affiant; and

(2) the nature and duration of the relationship between the affiant and the alien.

(j) DOCUMENTS ESTABLISHING SERVICE IN THE UNIFORMED SERVICES.—To establish that an alien has served in the Uniformed Services for at least 2 years and, if discharged, received an honorable discharge, the alien shall submit to the Secretary—

(1) a Department of Defense form DD-214;

(2) a National Guard Report of Separation and Record of Service form 22;

(3) personnel records for such service from the appropriate Uniformed Service; or

(4) health records from the appropriate Uniformed Service.

(k) DOCUMENTS ESTABLISHING EMPLOYMENT.—

(1) IN GENERAL.—An alien may satisfy the employment requirement under section 5(a)(1)(C)(iii) by submitting records that—

(A) establish compliance with such employment requirement; and

(B) have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

(2) OTHER DOCUMENTS.—An alien who is unable to submit the records described in paragraph (1) may satisfy the employment requirement by submitting at least 2 types of reliable documents that provide evidence of employment, including—

(A) bank records;

(B) business records;

(C) employer records;

(D) records of a labor union, day labor center, or organization that assists workers in employment;

(E) sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien's work, that contain—

(i) the name, address, and telephone number of the affiant; and

(ii) the nature and duration of the relationship between the affiant and the alien; and

(F) remittance records.

(l) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents does not reliably establish identity or that permanent resident status on a conditional basis is being obtained fraudulently to an unacceptable degree, the Secretary may prohibit or restrict the use of such document or class of documents.

#### SEC. 7. RULEMAKING.

(a) INITIAL PUBLICATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish regulations implementing this Act in the Federal Register. Such regulations shall allow eligible individuals to immediately apply affirmatively for the relief available under section 3 without being placed in removal proceedings.

(b) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, the regulations published pursuant to subsection (a) shall be effective, on an interim basis, immediately upon publication in the Federal Register, but may be subject to change and revision after public notice and opportunity for a period of public comment.

(c) FINAL REGULATIONS.—Not later than 180 days after the date on which interim regulations are published under this section, the Secretary shall publish final regulations implementing this Act.

(d) PAPERWORK REDUCTION ACT.—The requirements under chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act"), shall not apply to any action to implement this Act.

#### SEC. 8. CONFIDENTIALITY OF INFORMATION.

(a) IN GENERAL.—The Secretary may not disclose or use information provided in applications filed under this Act or in requests for DACA for the purpose of immigration enforcement.

(b) REFERRALS PROHIBITED.—The Secretary may not refer any individual who has been granted permanent resident status on a conditional basis or who was granted DACA to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of either such entity.

(c) LIMITED EXCEPTION.—Notwithstanding subsections (a) and (b), information provided

in an application for permanent resident status on a conditional basis or a request for DACA may be shared with Federal security and law enforcement agencies—

(1) for assistance in the consideration of an application for permanent resident status on a conditional basis;

(2) to identify or prevent fraudulent claims;

(3) for national security purposes; or

(4) for the investigation or prosecution of any felony not related to immigration status.

(d) **PENALTY.**—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than \$10,000.

**SEC. 9. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.**

(a) **IN GENERAL.**—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) **EFFECTIVE DATE.**—The repeal under subsection (a) shall take effect as if included in the original enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-546).

By Mr. THUNE:

S. 389. A bill to deter the trafficking of illicit fentanyl, provide justice for victims, and for other purposes; to the Committee on the Judiciary.

Mr. THUNE. Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 389

*Be enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Justice Against Sponsors of Illicit Fentanyl Act of 2023”.

**SEC. 2. FINDINGS AND PURPOSE.**

(a) **FINDINGS.**—Congress finds the following:

(1) International drug trafficking is a serious and deadly problem that threatens the vital interests of the United States and the safety and health of every community in the United States.

(2) Transnational criminal organizations, cartels, and violent gangs are leading perpetrators of drug trafficking, often combining the manufacture and distribution of synthetic opioids with violence, human smuggling and trafficking, firearms trafficking, and public corruption, and pose a sustained threat to the homeland security of the United States.

(3) Illicit fentanyl is primarily produced in clandestine laboratories and trafficked into the United States in powder and pill form, including fentanyl-laced counterfeit pills.

(4) The People’s Republic of China (hereinafter in this section referred to as “China”) is the primary source country of fentanyl precursor chemicals used to manufacture the illicit fentanyl that is trafficked into the United States.

(5) The Commission on Combating Synthetic Opioid Trafficking, established under section 7221 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92), reported in 2022 that China, which supplied 70 to 80 percent of fentanyl seized by Federal authorities between 2014 and 2019, has been surpassed by Mexico as the “dominant source” of illicit fentanyl in the United States.

(6) Illicit fentanyl is primarily trafficked by land into the United States through legal ports of entry, as well as between such ports of entry, with some trafficking facilitated by domestic and foreign-based social media and encrypted communication applications.

(7) In fiscal years 2021 and 2022, U.S. Customs and Border Protection seized over 24,000 pounds of fentanyl at ports of entry, a 200 percent increase from the amounts seized in fiscal years 2019 and 2020.

(8) Deaths caused by the trafficking of illicit fentanyl have reached epidemic proportions, as—

(A) fentanyl was involved in nearly 200,000 deaths in the United States during the period between 2014 and 2020;

(B) the number of drug overdose deaths in the United States surpassed 100,000 during the period between May 2020 and April 2021, of which over 64,000 deaths were related to fentanyl; and

(C) fentanyl and other synthetic opioids caused approximately ⅓ of more than 107,000 fatal overdoses in the United States during 2021.

(9) Overdose deaths remain a leading cause of injury-related death in the United States, and fentanyl-related deaths are the leading cause of deaths among adults aged 18 to 45.

(10) Failure to meaningfully combat illicit fentanyl trafficking will continue to stress the health care and law enforcement resources of the United States.

(11) It is necessary to recognize the substantive causes of action for aiding and abetting and conspiracy liability under the Controlled Substances Act (21 U.S.C. 801 et seq.).

(12) The decision of the United States Court of Appeals for the District of Columbia in *Halberstam v. Welch*, 705 F.2d 472 (D.C. Cir. 1983), which has been widely recognized as the leading case regarding Federal civil aiding and abetting and conspiracy liability, including by the Supreme Court of the United States, provides the proper legal framework for how such liability should function in the context of the Controlled Substances Act (21 U.S.C. 801 et seq.).

(13) Persons, entities, or countries that knowingly or recklessly contribute material support or resources, directly or indirectly, to persons or organizations that pose a significant risk of committing acts of trafficking of illicit fentanyl that threaten the safety and health of nationals of the United States or the national security, foreign policy, or economy of the United States, necessarily direct such conduct at the United States, and should reasonably anticipate being brought to court in the United States to answer for that conduct.

(14) The United States has a compelling interest in providing persons and entities injured as a result of the trafficking of illicit fentanyl into the United States with full access to the court system in order to pursue civil claims against persons, entities, or countries that have knowingly or recklessly provided material support or resources, directly or indirectly, to the persons or organizations responsible for their injuries.

(b) **PURPOSE.**—The purpose of this Act is to provide civil litigants with the broadest possible basis, consistent with the Constitution of the United States, to seek relief against persons, entities, and foreign countries, wherever acting and wherever they may be found, that have provided material support, directly or indirectly, to foreign organizations or persons that engage in the trafficking of illicit fentanyl into the United States.

**SEC. 3. RESPONSIBILITY OF FOREIGN STATES FOR THE TRAFFICKING OF FENTANYL INTO THE UNITED STATES.**

(a) **IN GENERAL.**—Chapter 97 of title 28, United States Code, is amended by inserting after section 1605B the following:

**“§ 1605C. Responsibility of foreign states for the trafficking of fentanyl into the united states**

“(a) **DEFINITION.**—In this section, the term ‘fentanyl trafficking’ means—

“(1) means any illicit activity—

“(A) to produce, manufacture, distribute, sell, or knowingly finance or transport—

“(i) illicit fentanyl, including any controlled substance that is a synthetic opioid and any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) that is a synthetic opioid utilized for fentanyl production; or

“(ii) active pharmaceutical ingredients or chemicals that are used in the production of fentanyl;

“(B) to attempt to carry out an activity described in subparagraph (A); or

“(C) to assist, abet, conspire, or collude with any other person to carry out an activity described in subparagraph (A);

“(2) a violation of section 401(a)(1) of the Controlled Substances Act (21 U.S.C. 841(a)(1)) involving manufacturing, distributing, or dispensing, or possessing with intent to manufacture, distribute, or dispense, fentanyl or a fentanyl-related substance in or into the United States;

“(3) an attempt or conspiracy to commit a violation described in paragraph (2);

“(4) having manufactured, distributed, or dispensed, or possessed with intent to manufacture, distribute, or dispense, fentanyl or a fentanyl-related substance outside the United States with the intention of such fentanyl or fentanyl-related substance being distributed or dispensed in or into the United States in violation of section 401(a)(1) or 406 of the Controlled Substances Act (21 U.S.C. 841(a)(1), 846); or

“(5) having produced or manufactured, distributed, or dispensed, or possessed with intent to manufacture, distribute, or dispense, a substance that is a precursor to fentanyl or a fentanyl-related substance with the intention of such precursor, fentanyl, or fentanyl-related substance being distributed or dispensed in or into the United States in violation of section 401(a)(1) or 406 of the Controlled Substances Act (21 U.S.C. 841(a)(1), 846).

“(b) **RESPONSIBILITY OF FOREIGN STATES.**—A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which money damages are sought against a foreign state for physical injury to person or property or death occurring in the United States and caused by—

“(1) an act of fentanyl trafficking in or into the United States; and

“(2) a tortious act or acts of the foreign state, or of any official, employee, or agent of that foreign state while acting within the scope of his or her office, employment, or agency, regardless where the tortious act or acts of the foreign state occurred.

“(c) **CLAIMS BY NATIONALS OF THE UNITED STATES.**—

“(1) **DEFINITION.**—In this subsection, the term ‘person’ has the meaning given the term in section 1 of title 1.

“(2) **CLAIMS.**—If a foreign state would not be immune under subsection (b) with respect to an act of fentanyl trafficking in or into the United States, a national of the United States may bring a claim against the foreign state in the same manner, and may obtain the same remedies, as a claim with respect to an act of international terrorism brought under section 2333.